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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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11 TRAVELERS PROPERTY,

No. C 10-02757 CRB

12 Plaintiff,

**ORDER DIRECTING ARGUMENT  
AND VACATING HEARING ON  
MOTION FOR PARTIAL SUMMARY  
JUDGMENT**

13 v.

14 CENTEX HOMES,

15 Defendant.  
16 \_\_\_\_\_/

17 Defendant Centex Homes asks the Court to reconsider its Order denying in part and  
18 granting in part Plaintiff Travelers's Motion for Summary Judgment. See dkt. 214. Centex  
19 argues that (1) new evidence demonstrates that the counsel Travelers sought to assign to  
20 Centex has a conflict of interest, thus excusing Centex of its breach of the duty to cooperate,  
21 and (2) the Court was wrong to conclude that Travelers was prejudiced by Centex's breach.  
22 Id. The Court does not wish to hear argument on the issue of conflict of interest. However,  
23 the Court does wish to hear argument on the issue of prejudice. Specifically, Centex should  
24 be prepared to tell the Court whether it would permit Travelers to assume its defense in the  
25 underlying actions from this point forward, provided the counsel appointed by Travelers was  
26 free of conflicts.

27 Additionally, the hearing on Travelers's Motion for Partial Summary Judgment as to  
28 the Kent, Ackerman, and Carter actions, dkt. 223, currently calendared for June 3, 2011, is

hereby VACATED. Only the Motion for Reconsideration will be heard on June 3, 2011.

**IT IS SO ORDERED.**

Dated: June 1, 2011



CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE